

REMARKS

Claims 12 to 14 have been canceled without prejudice (since their features have been included in rewritten claim 10), so that claims 10, 11 and 15 to 18 are pending.

In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

It is first noted that the Examiner has examined the wrong claims. Claims 1 to 9 were canceled without prejudice and claims 10 to 18 were added in the Preliminary Amendment mailed on March 22, 2005.

With respect to the priority issue, it is respectfully submitted that the Examiner should read 35 USC 119 and 37 CFR 1.78(C), which makes plain that the specification need not be amended as to the PCT application information. Nevertheless to facilitate matters, the specification has been amended to include the reference in the specification -- which is not required for a national phase of a PCT application where the information is provided in the Transmittal papers. Approval and entry are respectfully requested.

With respect to the objection to claim 3, the objection is traversed, since claim 3 (as well as claims 1, 2 and 4 to 9) was canceled without prejudice and claim 12 was added (as well as claims 10, 11 and 13 to 18) in the Preliminary Amendment mailed on March 22, 2005. It is therefore respectfully requested that the objection to claim 3 be withdrawn.

Applicants thank the Examiner for indicating that claims 5 to 7 and 9, which were only objected to, include allowable subject matter. However, as explained above claims 1 to 9 were previously canceled, and corresponding claims 10 to 18 were added to replace claims 1 to 9. Accordingly, the objections are traversed. Nevertheless, to facilitate matters, corresponding claim 10 has been rewritten to include the features of claim 14 (which corresponds to canceled claim 5), and is therefore allowable for the same reasons. Claims 15, 16 and 18 have been rewritten to include the features of their base claims, and are therefore allowable for the same reasons as corresponding and canceled claims 6, 7 and 9.

Claims 1 to 4 and 8 were rejected under 35 U.S.C. § 103(a) as unpatentable over Lucas et al., U.S. Patent No. 6,580,403 in view of Ondria, U.S. Patent No. 4,890,074.

To reject a claim as obvious under 35 U.S.C. § 103, the prior art must disclose or suggest each claim feature and it must also provide a motivation or suggestion for combining the features in the manner contemplated by the claim. (See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296

(1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990)). Thus, the “problem confronted by the inventor must be considered in determining whether it would have been obvious to combine the references in order to solve the problem”, Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 679 (Fed. Cir. 1998).

In particular, in rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

It is first noted that the Examiner has examined the wrong claims. Claims 1 to 9 were canceled without prejudice and claims 10 to 18 were added in the Preliminary Amendment mailed on March 22, 2005.

Accordingly, it is respectfully requested that the rejections be withdrawn as to claims 1 to 4 and 8, since these claims have previously been canceled without prejudice.

As to claim 10 (which corresponds to claim 1), it has been rewritten to include the features of claims 12, 13 and 14 (which have been canceled without prejudice). Accordingly, claim 10 is allowable for the same reasons as claim 5, as indicated by the Examiner. Claim 11 (which corresponds to canceled claim 2) and claim 17 (which corresponds to canceled claim 8) depend from claim 10 as presented, and are therefore allowable for the same reasons as claim 10 as presented. Accordingly, claims 10, 11 and 17 are allowable. It is therefore respectfully requested that the obviousness rejections be withdrawn.

Accordingly, claims 10, 11 and 15 to 18 are allowable.

CONCLUSION

In view of the above, it is respectfully submitted that all of the presently pending claims 10, 11 and 15 to 18 are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn, since they have been obviated. Since all issues raised have been addressed, an early and favorable action on the merits is respectfully requested.


Respectfully Submitted,

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By: 

Gerard A. Messina
(Reg. No. 35,952)

KENYON & KENYON LLP
One Broadway
New York, NY 10004
(212) 425-7200


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Avaran C.
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